

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF ISSAQUAH**

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| In the Matter of the Application of |) | No. PP13-00003 |
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| |) | |
| Bob Wenzel, Inneswood Estates, LLC |) | Inneswood Estates Preliminary Plat |
| |) | |
| |) | FINDINGS, CONCLUSIONS, |
| <u>For Approval of a Preliminary Plat</u> |) | AND DECISION |

SUMMARY OF DECISION

The request for a Preliminary Plat to subdivide a 6.4-acre parcel into 10 single-family residential lots, an access tract, and a steep slope/tree retention tract at 905 Newport Way NW is **APPROVED**. Conditions are necessary to mitigate specific impacts of the proposed development.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on March 25, 2015. The hearing record was held open until March 27 to receive written affirmation of the proposed plat of Inneswood Estates plat from the Assistant Fire Marshal.

Testimony:

The following individuals presented testimony under oath at the hearing:

Peter Rosen, City Senior Environmental Planner
Bob Wenzel, Applicant
Lafe Hermansen, for Applicant
Doug Schlepp, P.E., City of Issaquah Consulting Engineer
Terrence Cook
Clare Cronin
John Jensen

Exhibits:

The following exhibits were admitted into the record:

1. Preliminary Plat application, PP13-00003, received May 1, 2013, including Affidavit of Agent Authority, dated July 13, 2012
2. Vicinity map, undated
3. Project description, received May 1, 2013
4. Inneswood Estates, LLC, Short Plat, SP13-00002 (Sheet 1 of 1), dated July 31, 2014

*Findings, Conclusions, and Decision
City of Issaquah Hearing Examiner
Inneswood Estates Preliminary Plat
No. PP13-00003*

5. Preliminary Plat plans
 - a. Title Sheet (Sheet P01 of 7), dated December 3, 2014
 - b. Existing Conditions (Sheet P02 of 7), dated December 3, 2014
 - c. Preliminary Plat Map (Sheet P03 of 7), dated December 3, 2014
 - d. Preliminary Grading and Utility Plan (Sheet P04 of 7), dated December 3, 2014
 - e. Preliminary Grading and Utility Plan (Sheet P05 of 7), dated December 3, 2014
 - f. Preliminary Landscape Plan (Sheet P06 of 7), dated December 7, 2014
 - g. Preliminary Landscape Notes and Details (Sheet P07 of 7), dated May 2014
6. Geotechnical Reports
 - a. Geotechnical Report – Storm Drain Hillside Installation, Icicle Creek Engineers, dated June 2, 2014
 - b. Revised Geotechnical Report, Icicle Creek Engineers, dated December 31, 2013
 - c. Technical Memorandum from Brian R. Beaman, P.E., to Robert P. Wenzi, dated June 2, 2014
 - d. Memorandum from Doug Schlepp to Peter Rosen, dated March 4, 2014
 - e. Letter from Chris D. Breeds, P.E., SubTerra, Inc., to Peter Rosen, dated June 27, 2014
7. Amended Supplemental Report to the Tree Inventory and Density Report, Greenforest Incorporated, dated July 15, 2014
8. Certificate of Transportation Concurrence, CON13-00001, dated January 12, 2015
9. Public Notice
 - a. Public Hearing notice, *The Issaquah Press*, dated March 11, 2015
 - b. Affidavit of Service of Mailing, with Notice of Public Hearing, dated March 12, 2015, with vicinity map and address labels
 - c. Inneswood Estates Neighborhood Meeting Sign In Sheet, dated December 4, 2013, with address labels and email addresses
 - d. Public Notice SEPA Determination, *The Issaquah Press*, dated December 31, 2014
 - e. Affidavit of Service of Mailing, with Notice of Neighborhood Meeting, dated November 22, 2013, vicinity map, roadway exhibit, and address labels
 - f. Affidavit of Sign Installation, dated August 28, 2013, with photo of posted sign
 - g. Affidavit of Service of Mailing, 2013, with Notice of Application, dated June 28, 2013, vicinity map, preliminary plat map, and address labels
10. Environmental Checklist, dated May 6, 2014
11. Mitigated Determination of Nonsignificance, dated December 31, 2014
12. Public comments
 - a. Email from Lisa Zurhorst to Dave Favour, dated February 18, 2015, with email string
 - b. Email from Terrence and Kathryn Cook to Jerry Lind, dated July 17, 2013, with email string
 - c. Email from Lorraine Larsen to Jerry Lind, dated July 2, 2013, with email string
 - d. Email from Cory Sytsma to Jerry Lind, dated June 28, 2013, with email string
 - e. Email from Amy Eberhardt to Jerry Lind, dated November 12, 2012

- f. Email from Lorraine Larsen to Jerry Lind, dated June 28, 2013, with email string
 - g. Email from Jerry Lind to Connie Marsh, dated June 28, 2013, with email string
 - h. City of Issaquah Development Commission meeting minutes, dated November 14, 2012
 - i. Spark Property (Inneswood Estates) meeting with Jerry Lind, dated October 12, 2012, with email string
- 13. Staff Report
 - 14. Site Plan (Sheet 1 of 1), dated March 25, 2015
 - 15. Preliminary Grading and Utility Plan (Sheet P04 of 7), dated December 3, 2014, with email from Mark Lawrence, Asst. Fire Marshal, to Doug Schlepp, dated March 26, 2015.

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the public hearing:

FINDINGS

Application and Notice

1. Bob Wenzel, Inneswood Estates, LLC (Applicant),¹ requests approval of a Preliminary Plat to subdivide a 6.4-acre parcel into 10 single-family lots, an access tract, and a steep slope/tree retention tract. The property is located at 905 Newport Way NW.² *Exhibit 1; Exhibit 5; Exhibit 13, Staff Report, pages 1 and 2.*
2. The City of Issaquah (City) determined the application was complete on June 21, 2013. The City mailed notice of an application for a Preliminary Plat (4.34 acres for a nine-lot subdivision) to adjacent property owners and parties of record on June 28, 2013. On August 28, 2013, the developer posted the property (4.34 acres for a 10-lot subdivision). The City mailed a Notice of Neighborhood Meeting (for a 10-lot subdivision) to adjacent property owners and parties of record on November 22, 2013. The City published notice of the open record hearing in *The Issaquah Press* on March 11, 2015, and mailed notice to adjacent property owners and parties of record on March 12, 2015. *Exhibit 9; Exhibit 13, Staff Report, pages 2 and 3.*

State Environmental Policy Act

3. The City acted as lead agency and analyzed the environmental impacts of the proposed project as required by the State Environmental Policy Act (SEPA), Chapter 43.21C RCW. The City reviewed the Applicant's environmental checklist and other available information, and determined that, with nine mitigation measures, the proposed project would not have a probable significant adverse impact on the environment. The City issued a Mitigated Determination of Nonsignificance (MDNS) on December 31, 2014.

¹ Bob Wenzel testified that he is the Applicant, owner, and developer. *Testimony of Mr. Wenzel.*

² The subject property is identified by Tax Assessor Parcel No. 2824069011. A legal description of the property is included with the Preliminary Plat. *Exhibit 5.a.*

The mitigation measures direct that: all submitted geotechnical design requirements, recommendations, and development practices be followed; all structures and retaining walls be reviewed for code compliance prior to issuance of building or construction permits; the Applicant submit a geotechnical report evaluating specific building plans and grading plans prior to the issuance of building or construction permits; no structures or retaining walls over four feet in height be allowed within the building setback; the Applicant work with the Development Services Department to minimize the effective height of the retaining wall along the north portion of the site, to preserve Tract A as a critical area/open space tract, and to carry out tree protection measures for trees in Tract A prior to any construction or demolition activities; the edge or boundary between Tract A and the residential lots be evaluated for hazard trees; and the Applicant make a voluntary contribution for the General Government Buildings and Police Mitigation Fees. The City published notice of the SEPA determination in *The Issaquah Press* on December 31, 2014, with a comment/appeal deadline of January 21, 2015. No comments were received, and the MDNS designation was not appealed. *Exhibit 9.d; Exhibit 10; Exhibit 11; Exhibit 13, Staff Report, pages 2, 3, 8, 9, and 11.*

Proposed Development

4. The Applicant proposes to subdivide a 6.4-acre parcel (Parcel A) into 10 single-family residential lots, a 0.52-acre access tract (Tract D), and a separate 3.5-acre steep slope/tree retention tract (Tract A). Parcel A and Tract A were created as part of a 2014 short plat (SP13-00002), which also created a separate multi-family residential parcel to the east, zoned Mixed Use Residential, along Newport Way NW. The preliminary plat would allow for construction of utilities, roadways, stormwater facilities, site grading, and other plat improvements prior to recording of a final plat to establish the lots and for review of building permits for construction of the residences. The Applicant proposes to reduce the steep slope buffer from 50 feet to 10 feet, with a 15-foot building setback from the reduced buffer. *IMC 18.10.580. Exhibit 5; Exhibit 13, Staff Report, pages 1, 3, and 8.*

Comprehensive Plan, Zoning, AAS, and Surrounding Property

5. The property is designated Low Density Residential (LDR) by the City Comprehensive Plan. The purpose and intent of the LDR designation is:

to provide a variety of housing types and densities within a full range of urban services. The primary use in this designation is housing. The appropriate density of the individual residential zoning districts is based on the availability of urban services and the proximity to local streets, arterials and pedestrian access. Those areas with critical areas shall be appropriate for low density residential, with the intent to protect environmentally critical areas from impacts associated with more intensive development. These environmentally critical areas are valued as a community resource, both for conservation purposes and public

enjoyment; provided, that the environmentally critical areas are protected, low density single family residential use may be appropriate.

City of Issaquah Comprehensive Plan, Table L-3 – Land Use Designations: Purpose and Intent, page L-11. The property is located within the “Squak Mountain” Subarea of the Comprehensive Plan. *Exhibit 13, Staff Report, pages 2 and 4.*

6. The property is located within the City’s Single-Family Suburban (SF-S) zoning district. The purpose of the SF-S zone is to:

provide for single family neighborhoods in an urban setting while buffering these neighborhoods from commercial services. Permitted uses include detached single family homes. Recreational uses which serve the neighborhood are also permitted as governed by the Table of Permitted Land Uses; provided, that traffic and other related impacts are not detrimental to the district. In addition to the objectives stated in the Purpose and Intent section of this chapter, the following objectives also apply to this district:

1. Establish and preserve residential neighborhoods for detached single family units free from other uses except those which are compatible with, and serve the residents of, this district;
2. Discourage through arterial traffic which does not serve the affected single family neighborhoods; and
3. Provide opportunity for single family residential development in areas served by public and urban services.

Issaquah Municipal Code (IMC) 18.06.100.C. Exhibit 3; Exhibit 13, Staff Report, pages 4 and 5.

7. The SF-S zoning designation allows for single-family residential development at a maximum density of 4.5 dwelling units per acre. *IMC Table 18.07.360.* The proposed site is constrained by steep slopes in the eastern portion of the site. Critical areas and associated buffers, including steep slopes, which cannot be developed, receive partial density credit, which may then be transferred to the developable area of the site. *IMC 18.10.450.* An area equal to 1.83 acres, or 28.6 percent of the total site area, consists of critical areas and buffers. The City code allows for an 80 percent density credit when 21 to 30 percent of the proposed site is encumbered with critical areas. *IMC 18.10.450.B.2.* Accounting for density credit, the site’s proposed 10 lots are below the allowable maximum density. *Exhibit 5; Exhibit 13, Staff Report, page 6.*
8. The SF-S zoning designation allows for a 9,600 square foot minimum lot size. The City code permits “lot sizes below the minimum required for that zone to accommodate the transfer of density” from critical areas, provided the maximum zoning density is not

exceeded. *IMC 18.10.450.B.3*. For the proposed project, six of the 10 lots will be less than 9,600 square feet. The proposed project includes 79,709 square feet (1.83 acres) of critical areas and buffers, however, and the total reduction in the lot sizes below the 9,600 square foot minimum lot size is 4,569 square feet. Lot sizes have been reduced in order to accommodate the transfer of density from critical areas. *Exhibit 5; Exhibit 13, Staff Report, page 6*.

9. The SF-S zone allows a maximum impervious surface area of 40 percent. *IMC 18.07.360, Table 1*. Critical areas and buffers may be counted toward the pervious surface requirement. *IMC 18.07.360, Table 1, note 4*. Over half of the total proposed site area is in steep slope and tree retention tract. In addition, the site plan shows conceptual building footprints on each of the lots. The 40 percent impervious surface limit must be met on each of the lots, and this will be reviewed and verified with building permits. The SF-S zone typically requires 20-foot front yard building setbacks, 10-foot rear yard setbacks, and 8-foot side yard setbacks. The proposed lots would meet the setback requirements. *Exhibit 5; Exhibit 13, Staff Report, page 7*.
10. Undeveloped property including a steep slope/tree retention tract is located to the north and east of the proposed site. A single-family residence and the Morgan's View subdivision are located to the south. Single-family residences and the Woods at Issaquah subdivision are located to the west. *Exhibit 5; Exhibit 13, Staff Report, page 3*.

Existing Conditions

11. The triangle-shaped project site is presently undeveloped and heavily forested. The upper western portion of the site (Parcel A) is moderately sloped at less than 10 percent. The eastern portion of the site slopes steeply to the east. The elevation ranges from 216 feet in the southwest corner to 120 feet along the east edge of the site. The Applicant's Environmental Checklist identified hawks, eagles, and deer as having been observed or known to be on or near the site. *Exhibit 5; Exhibit 10; Exhibit 13, Staff Report, page 3*.

Critical Areas

12. Steep slopes along the east portion of the site exceed 40 percent incline and are protected as an environmental critical area. The Applicant proposes to reduce the 50-foot steep slope buffer to 10 feet, as allowed by *IMC 18.10.850*. The project proposal calls for a 15-foot building setback from the reduced buffer, with no occupied building within 25 feet of a steep slope. The Applicant prepared geotechnical reports to address slope stability and the steep slope buffer reduction. The City had an independent peer review completed on the geotechnical reports. City consultant Doug Schlepp wrote a Memorandum, dated March 4, 2014, reviewing the Applicant's Steep Slope Critical Area Study in support of reducing the steep slope buffer from 50 feet to 10 feet. Icicle Creek Engineers (ICE) also prepared a Technical Memorandum, dated June 2, 2014, to provide additional slope stability analysis for the proposed Inneswood Estates plat. The City determined that the recommendations from the geotechnical peer review were necessary

to address slope stability, and incorporated them as SEPA mitigation measures. The steep slopes are included as a separate Tract A from the developable area of the site. The Applicant would notify future buyers of lots that the steep slope buffer was reduced, and execute an agreement to hold the City harmless for development within 50 feet of the steep slope. *Exhibit 5; Exhibit 6; Exhibit 13, Staff Report, pages 8, 9, and 12.*

Landscaping and Tree Retention Area

13. Subdivisions in the SF-S zone must retain a minimum of 30 percent of the total caliper of existing significant trees outside of critical areas and buffers. The Tree Retention Plan shows trees would be preserved in a 3.5-acre proposed Tract A. Steep slopes and a steep slope buffer area would make up 1.83 acres of Tract A. The remaining 1.67 acres would retain sufficient caliper of trees to exceed the code requirement for the entire site and provide a surplus of 582 diameter-inches over the required tree retention. Therefore, no trees would be required to be retained in development Parcel A. SEPA mitigation measures require that Tract A be preserved as a critical area/open space tract, that approved tree protection measures be carried out prior to any construction or demolition activities, and that the edge or boundary between Tract A and the residential lots be evaluated for hazard trees. On July 15, 2014, Greenforest Incorporated prepared an "Amended Supplemental Report to Tree Inventory and Density at Inneswood Place, Issaquah, WA, dated March 17th, 2014." The Applicant submitted landscape plans showing street trees and landscaping on both sides of the new street. *Exhibit 5.f and .g; Exhibit 7; Exhibit 11; Exhibit 13, Staff Report, pages 7 and 8.*

Stormwater

14. The private street and lots would be graded to drain to the east. Stormwater runoff from the proposed development would be collected and piped downslope through Tract A to a stormwater detention vault located along Newport Way NW. City staff would approve the alignment and construction method prior to issuance of construction permits. ICE prepared a Geotechnical Consultation on a storm drain pipe hillside installation for the Applicant, dated June 2, 2014, which determined that either a hillside route or a steep slope route were equally feasible. ICE also prepared a revised geotechnical report, dated December 31, 2013, which determined that, with recommendations, the proposed project may be constructed generally as planned. *Exhibit 6; Exhibit 13, Staff Report, pages 9 and 10.*

Access and Parking

15. The property would be accessed from NW Inneswood Place to the west, which currently ends in a cul-de-sac. NW Inneswood Place would be connected to the proposed private street, Road A, running north/south within Tract D, with a north outlet to NW Pickering Street. Road A would provide access to all 10 lots. Lots 1 through 8 would have two 10-foot wide drive lanes; an eight-foot wide parallel parking lane; a six-inch curb, five-foot planter strip, on the western side of the street; and a six-inch curb, five-foot planting strip and a six-foot sidewalk, on the eastern residential side of the street, with a proposed 15-

foot landscape buffer along the west edge of Lots 9 and 10. *Exhibit 5.d; Exhibit 13, Staff Report, page 9.*

16. The City code requires two parking spaces per single-family residence. *Chapter 18.09 IMC*. Each residence would have a two-car garage to meet this standard. This would be reviewed with building permits. The proposed plat depicts a parking lane on the west side of the new street for additional parking. *Exhibit 5.d; Exhibit 13, Staff Report, page 7.*

Traffic

17. A traffic concurrency review was conducted to evaluate the impacts of traffic generated by the proposal. City Senior Planner Jerry Lind issued a revised Certificate of Transportation Concurrency for 10 lots on January 12, 2015. The traffic concurrency review determined that 10 new residences would result in 13 new PM peak hour trips and would not result in significant adverse impacts on the local street system. *Exhibit 8; Exhibit 13, Staff Report, page 9.*

Non-motorized Facilities

18. The City code requires non-motorized off-road facilities in addition to sidewalks to link to adjacent developments, open spaces, schools, or other activity centers and public facilities. *IMC 18.07.081*. Parcel A and Tract A were created in 2014 as part of a short plat (SP13-00002), which includes a multi-family residential parcel to the east along Newport Way NW. A public pedestrian access easement for a trail was recorded from Newport Way NW through the multi-family residential parcel and its associated critical area/tree retention Tract B, through proposed Tract A and proposed Lot 10, to connect to an existing pedestrian easement on Lot 2 of the Morgan's View subdivision. The proposed trail would provide pedestrian access from the proposed plat and surrounding subdivisions to Issaquah Elementary School and the Issaquah Commons shopping area on Newport Way NW. The trail alignment would be determined in the field to avoid impacts to existing trees and vegetation and accommodate the topography. Trail maintenance would be the responsibility of the Inneswood Estates homeowners' association. *Exhibit 4; Exhibit 13, page 7.*

Services and Utilities

19. Water and sewer utilities would be provided by the City of Issaquah. King County Metro has a bus stop at Maple Street NW and NW Gilman Blvd. *Exhibit 10; Exhibit 13, Staff Report, page 9.*

Parks, Recreation, and Schools

20. No on-site active recreation areas are required. The Applicant would pay a parks impact fee applied to each building permit to fund future acquisition and provisions of active park areas. The site is approximately a quarter mile from Tibbetts Valley Park, which contains ball fields and tennis courts. The proposed subdivision is in the Issaquah School

District and would be served by Issaquah Valley Elementary School, Issaquah Middle School, and Issaquah High School. A school bus stop location has not yet been determined. *Exhibit 13, Staff Report, page 10.*

Impact Fees

21. Impact fees are required for each new single-family residence. The Applicant would pay the fees for each residential unit for traffic improvements, fire protection, schools, parks, general government (SEPA), and police (SEPA). Impact fees would be calculated at the time the City issues building permits. *Exhibit 13, Staff Report, page 11.*

Public and Applicant Comment, and Staff Response

22. The City received written public comments on the application about possible impacts to an adjacent cedar tree, objections to "Talus Style" lots, and a request for a multi-use trail in the open space above Newport Way NW. *Exhibit 12.*
23. At the open record hearing, John Jensen testified about proposed Lots 9 and 10 which abut his backyard. He requested a full 20-foot landscape buffer between the access road and properties to the west. City Senior Environmental Planner Peter Rosen responded that the adjacent Morgan's View subdivision has a 20-foot tree buffer easement established in 1995. He testified that proposed Lots 9 and 10 are the only lots where adjacent backyards would abut the proposed plat. He noted that proposed Condition 12 would provide a 15-foot wide landscape buffer along the west edge of Lots 9 and 10, and requested that the reference in this condition to the access easement be deleted. The remainder of the lots would have a required five-foot landscape strip along the west property line, a six-inch curb, and an eight-foot parking lane. Bob Wenzel, Applicant, testified that a five-foot strip was sufficient. Doug Schlepp, P.E., City Consulting Engineer, testified that a five-foot buffer is typical along new roads with side-yards. *Exhibit 5.d; Testimony of Mr. Jensen, Mr. Rosen, Mr. Wenzel, and Mr. Schlepp.*
24. Terrence Cook testified that his property contains 100-year-old cedar trees. He requested a wider buffer to protect the trees. He testified that NW Inneswood Place currently has a cul-de-sac, and inquired whether the cul-de-sac property would be returned to him after the connection was made to the proposed plat. Mr. Rosen testified that the City's tree retention code requires 30 percent tree retention on-site, which would take place in Tract A on the eastern portion of the proposed plat, but does not apply to trees on adjacent properties. Mr. Schlepp testified that the intent of the City would be to facilitate extinguishing the cul-de-sac. Mr. Wenzel testified that he wants to review the language of any cul-de-sac easement or neighboring plat restriction to see who's responsible and if removal is desired by affected residents. The City and Applicant agreed to a condition to review any cul-de-sac easement or neighboring plat restriction to determine if removal is required. *Testimony of Mr. Cook, Mr. Rosen, Mr. Schlepp, and Mr. Wenzel.*

25. Clare Cronin testified that she lives west of the proposed plat along NW Inneswood Place and is concerned about fire protection and whether there is adequate space for fire trucks to access and turn around. She testified that the NW Inneswood Place cul-de-sac was required for a fire equipment turnaround. She testified that the proposed plat would double the traffic on NW Inneswood Place, which has limited sight distance and no sidewalks. She questioned whether the proposed trail from Morgan's View would be used; and asked why the trail would go through Tract A, which contains steep slopes; and whether the trail would be safe for children. She supports the development, but would prefer a design more compatible with the surrounding properties. She asked whether NW Inneswood Place could be repaved. Mr. Rosen testified that proposed Condition 16 provides for a 20-foot emergency turnaround easement between proposed Lots 7 and 8 that would be signed for "no parking, fire lane." Mr. Schlepp testified that the proposed plat was reviewed and approved by Eastside Fire & Rescue. Mr. Schlepp agreed to provide a written response from the Fire Marshal. He testified that, even with a doubling of traffic on NW Inneswood Place, traffic would be within road capacity and that sight distance concerns would be addressed at site work permit stage. He noted that NW Inneswood Place is adequate for access. Mr. Wenzel testified that he was unsuccessful at locating the trail off-site. Mr. Schlepp testified that the trail would provide a benefit for pedestrians. Mr. Rosen responded that the trail would provide access to Issaquah Elementary School and the Issaquah Commons shopping area on Newport Way NW. In addition, the City code requires trails that connect schools, open space, and activity areas. He testified that the City has specifications for trails where there are shared uses. The Parks Department and City staff would work with the Applicant to design the trail shown on the short plat in Exhibit 4. *Testimony of Ms. Cronin, Mr. Rosen, Mr. Schlepp, and Mr. Wenzel.*
26. Mr. Cook inquired about any proposed crosswalk for students at Newport Way NW and NW Juniper Street. Lafe Hermansen, an urban planner for the Applicant, reviewed Exhibit 14, a site plan depicting proposed changes to the Newport Way NW and NW Juniper Street intersection and the proposed trail, and indicated that he would submit the exhibit with the proposed trail overlaid to address any concerns about the proposed crosswalk. *Testimony of Mr. Cook and Mr. Hermansen.*
27. Mr. Jensen asked about a six-foot fence along the property line. Mr. Schlepp testified that, because a buffer is provided, no fence is required. Mr. Wenzel testified that, if a fence were required, then no buffer should be required. He is providing an additional eight-foot width for parking, but could provide buffer instead. Mr. Rosen responded that the private street cross-section is a typical street standard with some modifications to provide additional on-site parking. *Testimony of Mr. Jensen, Mr. Schlepp, Mr. Wenzel, and Mr. Rosen.*

City Staff Recommendation

28. City staff determined that the proposal is consistent with the Comprehensive Plan designation, Issaquah Land Use Code, and other application development regulations, including Chapter 18.13 IMC (Subdivision Code) as well as RCW 58.117.110 (Washington State Subdivision Code). City staff recommended approval of the preliminary plat with conditions. *Exhibit 13, Staff Report, pages 4 to 13.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has authority to hear and approve, conditionally approve, or disapprove the preliminary plat request after review of the preliminary plat, the administration's recommendation, testimony, and exhibits submitted at the public hearing. The Hearing Examiner makes the final decision on preliminary subdivisions. *Issaquah Municipal Code (IMC) 18.03.060.B; 18.03.170; 18.04.490.C.1; 18.13.140.A.*

Criteria for Review

Preliminary Plat

Preliminary plat proposals are reviewed through the Modified Level 4 review process and must comply with all the standards and criteria set forth in Chapter 18.13 IMC. *IMC 18.04.480 and 18.04.490.C.1.*

The standards and criteria for preliminary plats set forth in Chapter 18.13 IMC are established to promote the orderly and efficient division and re-division of land within the city, to avoid placing undue and unnecessary burdens on both the Applicant and the City, and to promote the public health and general welfare, complying with the provisions of Chapter 58.17 RCW. The criteria for review of a preliminary plat are set forth in RCW 58.17.110(2), as follows:

A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that:

- (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
- (b) The public use and interest will be served by the platting of such subdivision and dedication.

RCW 58.17.110(2).

Prior to any approval of the preliminary plat, all minimum street and utility improvements, or reasonable conditions deemed necessary to fulfill the purpose of the subdivision code, shall be specified by the Hearing Examiner, and the Applicant shall be advised of such. *IMC 18.13.140.B.*

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The criteria for review adopted by the Issaquah City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings

1. **With conditions, appropriate provisions will be made for the public health, safety, and general welfare, and appropriate provisions will be made for open spaces, drainage ways, streets, transit stops, potable water supplies, sanitary wastes, parks and recreation, schools and school grounds, and all other relevant facts.** The property is designated Low Density Residential by the City Comprehensive Plan. The LDR designation provides for a variety of housing types and densities, while also protecting critical areas. The Applicant would protect critical areas and trees on the site by providing a separate 3.5-acre steep slope/tree retention tract. Residential development is normally permitted within SF-S zoning districts at a maximum density of 4.5 dwelling units per acre. The City code allows for an 80 percent density credit, however, when 21 to 30 percent of the proposed site is encumbered with critical areas. Accounting for density credit, the site's proposed 10 lots fall below the allowable maximum density. The SF-S zoning designation typically requires a 9,600 square foot minimum lot size, but permits smaller lots to accommodate density transfer from critical areas. The present proposal's smaller lot sizes for Lots 1 through 6 comport with the goals of the SF-S zoning designation. The SF-S zoning designation allows a maximum impervious surface area of 40 percent. Over half of the total proposed site area is in critical areas/buffers and open spaces, thereby meeting this requirement. In addition, the site plan shows conceptual building footprints on each of the lots, and all lots must meet the 40 percent impervious surface limit. Stormwater runoff from the proposed development would be collected by a proposed on-site drainage system and discharged into a proposed detention vault. The City of Issaquah would provide water and sewer service.

The City issued a Certificate of Transportation Concurrency. The City determined that 13 new PM peak trips would not result in significant adverse impacts on the local street system. King County Metro provides bus service to the area. The location of a school bus stop location has not yet been determined. The Issaquah School District did not provide comments. The proposed development would include an internal sidewalk. The proposed plat would include a pedestrian trail to Newport Way NW and Issaquah Elementary School. The Applicant would pay transportation, fire, schools, park, general government, and police impact fees at the time of building-permit issuance. The proposed development meets the City's design standards and provides adequate parking, landscaping, and tree retention. The site plans require reducing the steep slope buffer from 50 feet to 10 feet, with a 15-foot building setback. The Applicant would notify

future buyers of lots that the steep slope buffer was reduced and execute an agreement to hold the City harmless for development within 50 feet of the steep slope.

During the hearing, neighboring property owners expressed concerns about the lack of buffer along the west side of Road A and suggested that the depicted parking lane along Road A from Lots 2 to 8 should be replaced with a landscape buffer. Because the parking strip is not required to fulfill plat parking requirements, proposed Condition 12 has been modified to extend a 13-foot wide landscape buffer within Tract D across from Lots 2 through 8 to replace the parking lane. This condition is unique to this proposed plat and does not establish a precedent for future development.

Proposed Condition 21 has been added to review whether the NW Inneswood Place cul-de-sac should be removed when the Road A connection occurs. Proposed Condition 22 has been added to ensure that the Applicant/Developer cooperates with the City Parks and Development Services to locate and construct the proposed trail as shown on Exhibit 4.

Conditions are necessary to ensure compliance with MDNS conditions, the application for a site work permit, yard setbacks, impervious surface limits, trail construction, tree retention monitoring, support of pedestrian activities, impact fees, and critical area regulations. *Findings 1, 3-28.*

2. **With conditions, the public use and interest would be served by the platting of such subdivision and dedication.** The City provided reasonable notice and opportunity to comment on the request. The City reviewed the proposed plat and issued an MDNS, with conditions to mitigate potential significant adverse impacts. Conditions are necessary to ensure compliance with MDNS conditions. The applicant must apply for a site work permit, adhere to yard setbacks, comply with impervious surface limits, participate in trail construction, monitor tree retention, pay impact fees, and adhere to critical area regulations. *Findings 1-28.*

DECISION

Based on the preceding Findings and Conclusions, the request for a preliminary plat to subdivide a 6.4-acre site into 10 single-family residential lots, an access tract, and a steep slope/tree retention tract at 905 Newport Way NW is **APPROVED**, subject to the following conditions:³

SEPA Mitigation Measures

1. All cited geotechnical design requirements, recommendations, and development practices specified in the Icicle Creek geotechnical reports shall be followed.

³ This decision includes conditions designed to mitigate impacts of this proposed project as well as conditions required by City Code.

2. Detailed design of structures and retaining walls shall be reviewed for compliance with code criteria in IMC 18.10.580, prior to issuance of building or construction permits.
3. The Applicant shall submit a geotechnical report evaluating specific building plans and grading plans prior to the issuance of construction and building permits. The geotechnical report shall follow City of Issaquah Development Services "Soils Report Requirements." A third-party independent review of the geotechnical report may be required at the Applicant's expense.
4. The 15-foot building setback required from the reduced steep slope buffer extends onto the back of several lots (Lots 1, 2, 3, 5, 6, 8, 9). No structures or retaining walls over 4 feet in height are allowed within the building setback. This restriction shall be noted on the Final Plat.
5. The retaining wall along the north portion of the site would be between 14 and 19 feet in height. The wall may be visible from Newport Way NW and other areas and result in aesthetic impacts. The height of the wall may be reduced by breaking it up into a 2-tier wall. The Applicant shall work with the Development Services Department to minimize the effective height of the retaining wall.
6. Tract A shall be preserved as a critical area/open space tract, protecting vegetation and precluding development in perpetuity. This shall be noted on the Final Plat.
7. Approved tree protection measures for trees in Tract A must be in place prior to any construction or demolition activities and installed in conjunction with limits of clearing and grading delineation. Clearing and grading shall be outside the critical root zone of significant trees in Tract A to the extent possible. This may require adjusting clearing/grading limits back from the rear of the lots.
8. After rough clearing and grading, the edge or boundary between Tract A and the residential lots shall be evaluated for hazard trees. If removal of hazard trees is necessary in Tract A, the City may require replacement tree planting along the edge of Tract A.
9. The Applicant should mitigate for potential impacts on public services with a voluntary contribution for the General Government Buildings and Police Mitigation Fees. Applicant objections to the voluntary payment should be made during the SEPA comment period. The mitigation fee is to be paid prior to issuance of building permits and the actual fee amount is determined at that time.


Preliminary Plat Conditions

10. The Applicant shall notify future buyers of lots, through a mechanism acceptable to the DSD Director, that the steep slope buffer was reduced and that development has occurred with fifty (50) feet of the steep slope, prior to issuance of Building Permits.
11. The Applicant shall execute an agreement which indemnifies and holds the City harmless for development within fifty (50) feet of the steep slope, required prior to issuance of Building Permits.

12. The Applicant shall provide a 15-foot wide landscape buffer along the west edge of Lots 9 and 10 in order to mitigate the development impacts on the abutting properties. The Applicant shall provide a 13-foot wide landscape buffer along the west edge of Tract D serving Lots 2 through 8, instead of an eight-foot parking lane.
13. The Applicant shall apply for a Site Work Permit to construct the roads, utilities and grading of the lots. A final plat review will follow after subdivision infrastructure has been installed or bonded for prior to recording.
14. Building setbacks and a 40 percent impervious surface limit shall be met on each of the residential lots and this will be reviewed and verified with building permits.
15. The Applicant shall construct or bond for the trail segment through Parcel A and Tract A prior to recording the preliminary plat. The alignment of the trail shall be determined in the field to avoid impacts to existing trees and vegetation and to best accommodate the topography. Future maintenance of the trail shall be the responsibility of the homeowners' association.
16. The 20-foot emergency turnaround easement provided between Lots 7 and 8 shall be signed for "no parking, fire lane."
17. Street lighting fixtures shall be selected to minimize light and glare impacts on adjacent properties.
18. Alignment and construction of the stormwater line through Tract A shall avoid removal and impacts to trees to the extent feasible. City staff shall approve the alignment and construction method prior to issuance of construction permits.
19. Impact fees are required for each new single-family residence. The following impact fees will be required and the applicable cost calculated at the time of issuance of building permits for each residential unit: Transportation, Fire, Schools, Parks, General Government (SEPA), Police (SEPA).
20. The following critical area regulation conditions shall apply prior to final plat:
 - 1) Permanent survey stakes shall be set to delineate the boundaries between critical area tracts and adjoining lots.
 - 2) Signs between critical area tracts and adjacent lots shall be installed, explaining the type and value of the critical area.
 - 3) The final plat shall include language to protect the critical area tract from development in perpetuity.
21. The Applicant/Developer shall review the NW Inneswood Place cul-de-sac area to determine if a recorded easement or plat restriction exists, and if removal is necessary and desirable. If so, the Applicant/Developer shall comply with the easement or any condition of the adjacent plat requiring the easement unless all burdened property owners and the Applicant/Developer agree to an alternative.

22. The Applicant/Developer shall cooperate with City Parks and Development Services to locate the trail similar to that shown on Exhibit 4.

Decided this 10th day of April 2015.


THEODORE PAUL HUNTER
Hearing Examiner
Sound Law Center